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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,137	12/11/2003	Rick Baggenstoss	07117.105017	8268

7590 01/11/2007  
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EXAMINER
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AL AUBAIDI, RASHA S

ART UNIT	PAPER NUMBER
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2614

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/11/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/733,137

Applicant(s)

BAGGENSTOSS ET AL.

Examiner

Rasha S. AL-Aubaidi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Double Patenting***

1. Claims 1-45 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims of copending Applications No. 10/733,457. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims in the instant application and in the copending application recite a computer based method for managing delivering performance interventions in a contact center comprising: determining a state of the contact center; comparing the state of the contact center, and if the state of the contact center is below the state level, delivering the first performance intervention. However, claim 1 in this application recites "assigning first and second priority performance intervention". It would have been obvious to set two different parameters or levels of acceptable performance to the contact center. Obviously performance should not be dropped than the lower parameter. Once the contact center reaches the lowest level training should be provided to enhance the contact center performance again.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koehler et al. (US PAT # 6,914,975) in view of McCormack (US PAT # 6,754,331).

Regarding claims 1, Koehler teaches a computer-based method for managing delivering performance interventions to agents in a contact center (see col. 2, lines 21-25) comprising: assigning a first priority to a first performance intervention and a second priority to a second performance intervention (this basically reads on the scenario of assigning a threshold to determine the lowest level of performance and the highest level of performance. Normally if the performance dropped below the lowest acceptable level, then training is required to improve the quality of the call center, see col. 1, lines 26-30); comparing the state of the contact center to a state level (reads on the acceptable level

of performance to the contact center), and responsive to the comparing step, if the state of the contact center is below the state level, delivering the first performance intervention (this reads on providing a training to an agent in the event of poor performance, see col. 1, lines 27-29.)

Koehler does not specifically teach determining a state of the contact center.

However, McCormack teaches that a supervisor require information about agent performance in a call center. Based on the performance of agents in the call center supervisor will assign agents for training (see col. 1, lines 6-8, lines 43-45 and lines 61-67).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the feature of determining the state of the contact center (which reads on the performance of the call center), as taught by McCormack, into the Koehler system, in order to enhance the efficiency of the call center by providing a better customer service.

Claims 19-20, 25-27, 29-31, 33-35, 38-39 and 40-45 are rejected for the same reasons as discussed above with respect to claim 1. The claimed feature of "identifying a time-sensitive for delivery" is obvious and well known. Obviously one can schedule the training to be delivered at any time desired.

Regarding claim 2, limitations, see McCormack (col. 2, lines 28-55).

Regarding claims 3, 5, 7 and 24, McCormack teaches determining the state of the contact center comprises determining a performance of the contact center (see col. 1, lines 43-45). The claimed “forecasting” feature is old and well known in the art.

Claim 4 recites “the step of determining the state of the contact center comprises monitoring contact volume and handle time”. See McCormack Fig. 3A and Fig. 4.

Regarding claims 6, 28, 32 and 37, McCormack teaches the step of determining the state of the contact center comprises determining at least one of a service level, an abandonment rate, a hold time, and a call volume (see Fig. 4 for example).

The limitations of claim 8 are obvious and well known in the art. One obviously can determine the performance at any desired interval time such as hourly, daily or weekly.

Regarding claims 9-10 and 21, McCormack teaches receiving the state from a component of the contact center (this reads on providing the performance information from the call center server as shown in Fig. 2 to the supervisor, see col. 1, lines 43-67).

For claims 11 and 22, the claimed feature of “delivering training in advance of a target completion time” is obvious. Obviously one can schedule the training to be delivered at any desired time for completing the training.

Claims 12-15 are rejected for the same reasons as discussed above with respect to claim 1. Also, the claim limitations are obvious and well known in the art. One normally would provide training to the agent with the lowest performance in order to improve his/her skills.

Claims 16 and 17-18 limitations are obvious and well known in the art.

### ***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rasha S AL-Aubaidi whose telephone number is (571) 272-7481. The examiner can normally be reached on Monday-Friday from 8:30 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar, can be reached on (571) 272-7488.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Rasha S. Al-Aubaidi', with a horizontal line drawn underneath it.

RASHA S. AL-AUBAIDI  
PATENT EXAMINER

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**01/07/2007**